

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|---------------------------------|---|----------------------|
| PNC BANK, NATIONAL ASSOCIATION |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:13-CV-1073 CAS |
| |) | |
| EL TOVAR, INCORPORATED, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on the receiver SH Equities, LLC’s motion to (1) Authorize the Public Sale of Certain Real Estate; (2) Approve Procedure for the Public Sale; (3) Approve Form and Manner of Notice of Sale; (4) Set a Hearing to Approve Sales Procedure; and (5) Set a Hearing to Confirm Sale (the “Motion”). The Motion was filed by SH Equities, LLC, in its capacity as the Receiver for two residential buildings and related real property commonly referred to as 1853 S. Spring Avenue, St. Louis, Missouri, 3803 Shaw Avenue, St. Louis, Missouri, and 4226-28 Cleveland Avenue, St. Louis, Missouri (the “Property), and owned by El Tovar, Incorporated. No response was filed to the Motion and the time to do so has passed. For the following reasons, the Motion will be granted in all respects except that no hearing will be held to approve the sales procedure.

The Motion asks the Court to authorize the sale of the Property pursuant to the provisions of 28 U.S.C. §§ 2001, et seq. The Motion asks the Court to approve the procedures to be used for the sale of the Property and the form of the notice of the sale to be published pursuant to 28 U.S.C. § 2002.

After consideration of the Motion and provisions of 28 U.S.C. §§ 2001, et seq., the Court finds that the sale of the Property will conserve the value of the assets of defendants El Tovar, Incorporated and Steven Parrish and is in the best interest of the receivership estate.

The Court further finds that the sales procedure described in paragraph 29 of the Motion is fair and reasonable and will permit the Receiver to conduct an orderly sale to obtain the best offer on the best possible terms for the Property. The sales procedure complies with the requirements of 28 U.S.C. §§ 2001, et seq., and insures that all bids will be comparable by requiring all bids to be on substantially the same terms and conditions.

Accordingly,

IT IS HEREBY ORDERED that the Receiver's Consent Motion to (1) Authorize the Public Sale of Certain Real Estate (2) Approve Procedure for the Public Sale, (3) Approve Form and Manner of Notice of Sale, (4) Set a Hearing to Approve Sales Procedure, and (5) Set a Hearing to Confirm Sale is **GRANTED in part** and **DENIED in part**. The motion is **DENIED** only to the extent it seeks a hearing to approve the sales procedure, and is **GRANTED** in all other respects. [Doc. 114]

IT IS FURTHER ORDERED that the Receiver is authorized and directed to conduct a public auction to sell the Property pursuant to the procedure described in Paragraph 29 of the Motion.


IT IS FURTHER ORDERED that the Receiver shall publish notice of sale in the form attached as Exhibit C to the Motion as set forth in Paragraph 29(a) of the Motion.

IT IS FURTHER ORDERED that upon the successful closing of the sale of the Property, the Receiver shall be entitled to receive payment of a commission of four (4) percent of the final sale, and any mortgage, security interest, lien or encumbrance on the Property shall

attach to the net proceeds of the sale of the Property with the same validity and priority as they enjoyed with respect to the Property.

IT IS FURTHER ORDERED that in the event that a competing Qualified Bid (as defined in the Motion) is received by the Receiver on a timely basis, the auction shall be held at the courthouse of the Circuit Court of the City of St. Louis, State of Missouri, 10 North Tucker Boulevard, St. Louis, Missouri 63101 on a date selected by the Receiver at least seven (7) days after the final notice of sale is published. In the event that no other Qualified Bids are received, the Receiver shall not be required to conduct the auction at a date and time set forth in the notice.

IT IS FURTHER ORDERED that the Court will conduct a hearing on Thursday, **July 17, 2014 at 1:30 p.m.** in Courtroom 3 North, Thomas F. Eagleton Courthouse, 111 South 10th Street, St. Louis, Missouri 63102 to consider the results of the public auction and to confirm the resulting sale. Nothing in this Memorandum and Order constitutes a confirmation of the resulting sale, which shall be subject to this Court's approval.


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 16th day of May, 2014.